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LETTER DATED 22 MARCH 1999 FROM THE PERMANENT REPRESENTATIVE OF ERITREA TO THE UNITED NATIONS ADDRESSED TO THE PRESIDENT OF THE SECURITY COUNCIL

I have the honour to forward the attached document which His Excellency Haile Weldensae, Minister of Foreign Affairs of the State of Eritrea, presented as a briefing statement to members of the Security Council this morning, 22 March 1999, under the "Arria Formula" (see annex).

I should be grateful if you would have the present letter and its annex circulated as a document of the Security Council.

(Signed) Haile MENKERIOS
Ambassador
Permanent Representative

* Reissued for technical reasons.

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Annex

Statement made on 22 March 1999 by the Minister for Foreign Affairs of Eritrea to members of the Security Council on the conflict between Eritrea and Ethiopia under the Arria Formula

It is indeed an honour for me to be given the opportunity to brief the Council on the border conflict between my country and Ethiopia which has unnecessarily and irrationally escalated to full-scale war leading to thousands of casualties and the suffering of so many. I say unnecessary because, as we, and I am sure Your Excellencies, have always believed, the border dispute between Eritrea and Ethiopia could be solved through peaceful and legal means; and irrational, because the use of force, as has been and is being attempted by the Ethiopian regime, can never lead to a solution.

Let me say at the outset that Eritrea highly appreciates the deep concern of the Security Council and the rest of the international community about the conflict as well as the efforts that have been and are being made by different parties for its peaceful resolution.

Allow me to present a synopsis of the genesis of the conflict, where we are now and what we believe needs to be done to curb Ethiopia's designs to continue its war of aggression and to move to the final settlement of the border on the basis of the OAU Framework.

It is known to the Council that Ethiopia has so loudly and persistently announced its "full acceptance" of this Framework which Eritrea did also, after considering the necessary clarifications from the OAU High-Level Delegation and making compromises to pave the way for its implementation, full-heartedly accept.

Eritrea has been consistent in its argument that the borders between Eritrea and Ethiopia were clearly delineated by duly signed treaties during the colonial period and remained unaltered until Ethiopia forcibly annexed Eritrea in 1962. Even after the illegal annexation, the borders of the annexed "province" of Eritrea remained the same during both the Haile Selassie and Mengistu regimes.

It is the pattern of expansionist and aggressive behaviour of the Ethiopian regime that is the root cause of the existing conflict, and it is the proper understanding of the measures Ethiopia has taken that expose this behaviour, we strongly believe, that can lead to a correct, just and legal approach to end the conflict and settle the dispute peacefully.

International law clearly states that every State has an obligation to respect the territorial integrity and sovereign independence of every other State. The United Nations Charter, Article 2, paragraph 4, states that: "All Members shall refrain in their international relations from the threat or use of force against the territorial integrity or political independence of any State, or in any other manner inconsistent with the purposes of the United Nations."

The actions that Ethiopia undertook prior to May 1998 to attempt to alter or undermine Eritrea's borders were illegal aggression, and illegal aggression cannot be the basis for acquisition of territory. Ethiopia's pattern of behaviour over recent years indeed shows a spiral of increasing disregard for Eritrea's inherited boundary. It presents a classic case of aggression under accepted definitions of international law.

1. Ethiopia's attack in Bada

In August 1997, Ethiopian troops illegally entered Adi Murug in the Bada area of Eritrea. That this was an illegal incursion was undeniable, and Ethiopia did not attempt to justify the incursion by denying Eritrean sovereignty over the area. Instead, Ethiopia explained that it had been pursuing rebel forces that fled Ethiopia and took refuge in Eritrea. Nonetheless, while present in Eritrea, the Ethiopian military dismantled Eritrea's governmental presence and administration in order to set up an administration of its own.

Under the United Nations General Assembly's Definition of Aggression (1974), this incursion clearly constituted illegal aggression. Article 3 states:

> "Any of the following acts, regardless of a declaration of war, shall, subject to and in accordance with the provisions of article 2, qualify as an act of aggression:
>
> (a) The invasion or attack by the armed forces of a State of the territory of another State, or any military occupation, however temporary, resulting from such invasion or attack, or any annexation by the use of force of the territory of another State of part thereof."

The Definition of Aggression not only identifies the Ethiopian behaviour of 1997 as aggression, it also clearly provides that such aggressive activities cannot constitute the basis for any "territorial acquisition or special advantage" in the territory occupied. According to Article 3, "No territorial acquisition or special advantage resulting from aggression shall be recognized as lawful."

As with all of Ethiopia's other illegal military activities on Eritrean soil, Ethiopia cannot have obtained any vested rights in military incursions that were intrinsically illegal.

2. Ethiopia's encroachment in Badme

Starting in mid-1997, Ethiopia also directly initiated efforts to alter the international border on the ground in the Badme region. As is well known, Ethiopian officials operating in the area around Badme commenced a programme of placement of piles of rocks in an effort to establish a new international border. In certain cases, Ethiopia was not satisfied with the scope of its

initial incursion into Eritrean territory and came back a second or third time to move the rock markers to try to encroach even further into Eritrean territory.

Such efforts clearly violate international law, which requires respect for the existing international boundaries of a State. The United Nations General Assembly's Declaration on Principles of International Law concerning Friendly Relations and Cooperation among States in accordance with the Charter of the United Nations states that "Every State shall refrain from any action aimed at the partial or total disruption of the national unity and territorial integrity of any other State or country", and that "the territorial integrity and political independence of the State are inviolable".

3. Ethiopia's unilateral issuance of maps incorporating Eritrean territory into Tigray

In 1997, Ethiopia issued a map that purported to claim large portions of Eritrean territory. Entitled "Political Map of Tigray", it was prepared by the Planning and Economic Development Bureau, Physical Planning Department. The title of the newspaper article containing this map was "New Map of our Administrative Zone Prepared". According to the text of the article, "the map defines the new boundaries of Tigray with other countries and with Administrative Zones in Ethiopia". It was said to be the result of three years of research and to have been approved by the Central Mapping Authority in Addis Ababa. Comparison with standard administrative maps of Ethiopia shows that the changes effected by this new map were quite substantial.

Ethiopia obviously knew that the map was a "new" one which altered the traditional borders, but it made no effort to justify or explain this unilateral incorporation of Eritrean territory. It did not state what facts or legal arguments turned up in the "three years of research" that might have led it to think that it had the power to unilaterally define "the new boundaries of Tigray with other countries". Or to draw the line in the location that it did. To this day, it is simply unclear what Ethiopia thinks that it has a right to. Although asked many times, it refuses to say.

While Ethiopia refuses to state the extent or the basis of its territorial claims, it can hardly be doubted that this map was intended to be an early step in a campaign to acquire portions of Eritrean territory. Such efforts to acquire territory on the other side of an existing international boundary are, as stated above in 2, illegal under international law.

4. Ethiopia's attack on Eritrean officials in Badme on 6 May 1998

Ethiopia's efforts to redraw the international boundary in Badme culminated in its attack of 6 May 1998. On that date, about 60 Ethiopian army troops completely encircled a group of 10 Eritrean officers who were present in the Badme region and opened fire. Four were killed and three wounded. This initial attack further led to spiralling clashes in the subsequent days, with both sides

bringing in reinforcements and a final showdown on 12 May 1998 in which Ethiopian troops were driven out of Badme.

Eritrea's reaction to this completely unjustified attack presents a classic case of self-defence under international law. Article 51 of the United Nations Charter states clearly that every State has an "inherent" right of self-defence against armed attack: "Nothing in the present Charter shall impair the inherent right of individual or collective self-defence if an armed attack occurs against a Member of the United Nations, until the Security Council has taken the measures necessary to maintain international peace and security."

5. Ethiopia's declaration of war

Ethiopia subsequently declared war on Eritrea on 13 May 1998. And, on 4 June, the Ethiopian Prime Minister ordered the Ethiopian Military to implement this declaration of war. The following morning, Ethiopian forces attacked Eritrea throughout the common border, and at 2:10 p.m. the same day, the Ethiopian air force bombed the capital city of Eritrea.

Eritrea's constant and consistent calls for cessation of hostilities, the demilitarization of the entire border, the deployment of neutral monitoring forces and the speedy demarcation of the border continued to be ignored by Ethiopia.

6. Ethiopia's all-out attack on 6 February 1999

In early February 1999, Ethiopia launched an all-out offensive against Eritrea. The supposed justification was an air raid that (according to Ethiopia) had taken place in Adigrat on 5 February. Several independent sources confirmed Eritrea's official statement that no such air raid had ever taken place. However, Ethiopia continues to cite this supposed "air raid" as the rationalization for its all-out war. In mounting this attack since 6 February, Ethiopia has violated the United States-brokered moratorium on air strikes and has bombed civilians fleeing northward into Eritrea from areas near the border. Eritrea has not violated the moratorium, even in the face of Ethiopia's illegal bombing of its territory.

In the months leading up to the February attack, Ethiopia had engaged in full-scale build-up of troops and armaments at several places along the border. Ethiopia had also issued continuous threats to Eritrea that it would "teach Eritrea a lesson", that it would replace or overthrow the current Government of Eritrea, and so forth. Among its other violations of international law are its deportation of over 54,000 persons of Eritrean family origin, the internment without trial of unknown number of persons in Ethiopian prison camps, and the 9 February forced entry into, ransacking and continued occupation of the Eritrean Embassy residence in Addis Ababa.

It is evident from the series of measures briefed above that the Ethiopian regime had violated Eritrean sovereignty and territorial integrity through illegal acts of aggression prior to 6 May 1998, not to mention its subsequent

acts of aggression. From the start of discussions with the OAU, these developments, along with evidence of where the border lay and that we remained inside our territory, were brought before the OAU High-Level Delegation. We consistently argued, and rightly so, that illegal aggression cannot be the basis for acquisition of territory, and for this reason, any proposal that takes May 1998 as the relevant "status quo ante" rewards Ethiopia's illegal efforts to undermine the existing international border in place between Eritrea and the Tigray state of Ethiopia, and is a violation of international law. If measures taken on the ground needed to be reversed, they were the illegal, aggressive measures taken by the Ethiopian Government to forcibly alter the established border between the two countries and not the legitimate measures taken by Eritrea to defend its sovereignty.

When the OAU finally came up with its proposed Framework Agreement for a peaceful solution at the Summit of the High-Level Delegation in Ouagadougou in November last year, Eritrea expressed its positive stance considering the Framework as a basis for discussions that would lead to an agreement acceptable to both parties. In this spirit, Eritrea invited the OAU Secretary-General for consultations to Asmara on 12 December 1998, and submitted a list of queries on which it sought clarifications prior to its full acceptance of the Framework Agreement. Eritrea hoped that the clarifications would be given prior to the Summit of the Central Organ which was then scheduled for 17-18 December. Unfortunately, and for reasons that are better explained by the OAU High-Level Delegation, this did not happen as expected. While noting the respective positions of both countries, the Central Organ endorsed the Framework Agreement and called on both sides to cooperate with the High-Level Delegation.

The written clarifications were provided to Eritrea on 26 January 1999. But before Eritrea could digest the clarifications to give its considered response, Ethiopia launched yet another offensive against Eritrea on 6 February 1999. This was in clear contravention of the OAU's repeated calls for both sides to observe maximum restraint and continue to uphold the de facto cessation of hostilities which was, indeed, a primary element in the Framework Agreement in order to pave the way for a final solution on the basis of the demarcation of the boundary.

Eritrea accepted the proposed Framework as a compromise, as a measure of "goodwill", as requested by the OAU delegation, to stop further bloodshed and expedite the demarcation of the border. Eritrea did so because it was led to believe that the proposal and written clarifications that were provided by the OAU High-Level Delegation, which were known to Ethiopia, were "fully accepted" by Ethiopia as well. That is what the OAU and the Security Council led us to believe Ethiopia had done and urged us to do likewise in the interest of peace. And that is what we did.

How could these very bodies now fail to condemn the Ethiopian regime when it reverses its position and presents a new and totally unacceptable condition not only to ensure its illegal occupation of Eritrean territory, but also to provide itself a smoke screen to continue its war for wider agendas against Eritrean sovereignty? How far is Ethiopia to be appeased to move the goalpost of its aggressive demands further and further as we are required to make unjustified compromises to accommodate its dictates?

For us, Ethiopia's designs and tactics are clear. The Ethiopian regime has made no secret of it. It intends to maintain its illegal control and take more of Eritrean territory by force, defeat the Eritrean army completely and replace the Eritrean Government by a puppet regime which will respond to its dictates. The Ethiopian regime has already formed such a "government in exile" from terrorist groups such as the Islamic Jihad in collaboration with the National Islamic Front Government of the Sudan.

I would like to conclude my remarks by reconfirming that Eritrea has always called for and is now ready for a ceasefire. It has likewise expressed its readiness for the immediate implementation of the OAU proposal which the Council has supported. Any attempt to revise that proposal which both have avowedly accepted, would lead to a total nullification of that proposal, thus postponing the demarcation of the border which alone can definitively settle the conflict. To reiterate our firm position, Eritrea has accepted the proposal to withdraw from its own territory in Badme and its immediate environs only as a "goodwill measure" not because of any other justification. If the Ethiopian regime insists on new conditions to persist on its warpath against Eritrean sovereignty, Eritrea has the responsibility, capacity and resolve to defend itself.

I thank you.